



MAY 02 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO, ONTARIO CAX, M5G 1R.7

In re Application of MYERS et al.	:
Application No.: 09/673,133	:
PCT No.: PCT/CA99/00307	:
Int. Filing: 12 April 1999	:
Priority Date: 14 April 1998	:
Attorney Docket No.: 1038-1102 MIS	: DECISION ON PETITION
For: TRANSFERRIN RECEPTOR GENES OF	: UNDER 37 CFR 1.47(a)
MORAXELLA	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 03 January 2002. Applicant also requested a two month extension of time, which is granted.

BACKGROUND

On 30 April 2001, applicant, in response to 31 October 2000 Notification of Missing Requirements, filed a petition in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Run-Pan Du on the grounds that the non-signing inventor refused to execute the declaration.

On 07 September 2001, a decision on petition was mailed to applicant indicating that applicant had not provided: (1) factual proof that the non-signing inventor refused to execute the application; and (2) an acceptable declaration signed by the 37 CFR 1.47(a) applicants on behalf of the non-signing inventor.

On 03 January 2002, applicants filed the instant renewed petition under 37 CFR 1.47(a) along with a declaration executed by all the inventors, including Run-Pan Du.

The renewed petition under 37 CFR 1.47(a) is considered moot as a declaration executed

by all the inventors has now been submitted.

Although the declaration submitted on 03 January 2002 identifies each inventor and states the citizenship, residency and mailing address of each of the inventors, the declaration contained two identical sheets of page 3 and two identical sheets of page 4. Each page is signed by different inventors. Thus, the declaration is not properly executed. It appears that the attorney pieced together two separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or two separate complete declarations. Thus, the requirements of 37 CFR 1.497 have not been met.

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered moot. However, the declaration as submitted is unacceptable under 37 CFR 1.497.

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.497 within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the **ABANDONMENT** of the application.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231.

This application is being forwarded to United States Designated/Elected Office to await receipt of the oath/declaration in compliance with 37 CFR 1.497 as required above.



Boris Milef
Legal Examiner
PCT Legal Office



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467
Facsimile: 703-308-6459

CMK/BM:cmk